

103^D CONGRESS
1ST SESSION

H. R. 3225

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Received

AN ACT

To support the transition to nonracial democracy in South
Africa.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “South African Demo-
3 cratic Transition Support Act of 1993”.

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

6 (1) After decades of apartheid, South Africa
7 has entered a new era which presents a historic op-
8 portunity for a transition to a peaceful, stable, and
9 democratic future.

10 (2) The United States policy of economic sanc-
11 tions toward the apartheid government of South Af-
12 rica, as expressed in the Comprehensive Anti-Apart-
13 heid Act of 1986, helped bring about reforms in that
14 system of government and has facilitated the estab-
15 lishment of a nonracial government.

16 (3) Through broad and open negotiations, the
17 parties in South Africa have reached a landmark
18 agreement on the future of their country. This
19 agreement includes the establishment of a Transi-
20 tional Executive Council and the setting of a date
21 for nonracial elections.

22 (4) The international community has a vital in-
23 terest in supporting the transition from apartheid
24 toward nonracial democracy.

1 (5) The success of the transition in South Afri-
2 ca is crucial to the stability and economic develop-
3 ment of the southern African region.

4 (6) Nelson Mandela of the African National
5 Congress and other representative leaders in South
6 Africa have declared that the time has come when
7 the international community should lift all economic
8 sanctions against South Africa.

9 (7) In light of recent developments, the continu-
10 ation of these economic sanctions is detrimental to
11 persons disadvantaged by apartheid.

12 (8) Those calling for the lifting of economic
13 sanctions against South Africa have made clear that
14 they do not seek the immediate termination of the
15 United Nations-sponsored special sanctions relating
16 to arms transfers, nuclear cooperation, and exports
17 of oil. The Ad Hoc Committee on Southern Africa
18 of the Organization of African Unity, for example,
19 has urged that the oil embargo established pursuant
20 to a 1986 General Assembly resolution be lifted
21 after the establishment and commencement of the
22 work of the Transitional Executive Council.

23 **SEC. 3. UNITED STATES POLICY.**

24 It is the sense of the Congress that—

25 (1) the United States should—

1 (A) strongly support the Transitional Ex-
2 ecutive Council in South Africa,

3 (B) encourage rapid progress toward the
4 establishment of a nonracial democratic govern-
5 ment in South Africa, and

6 (C) support a consolidation of democracy
7 in South Africa through democratic elections
8 for an interim government and a new nonracial
9 constitution;

10 (2) the United States should continue to pro-
11 vide assistance to support the transition to a
12 nonracial democracy in South Africa, and should
13 urge international financial institutions and other
14 donors to also provide such assistance;

15 (3) to the maximum extent practicable, the
16 United States should consult closely with inter-
17 national financial institutions, other donors, and
18 South African entities on a coordinated strategy to
19 support the transition to a nonracial democracy in
20 South Africa;

21 (4) in order to provide ownership and manage-
22 rial opportunities, professional advancement, train-
23 ing, and employment for disadvantaged South Afri-
24 cans and to respond to the historical inequities cre-
25 ated under apartheid, the United States should—

1 (A) promote the expansion of private en-
2 terprise and free markets in South Africa,

3 (B) encourage the South African private
4 sector to take a special responsibility and inter-
5 est in providing such opportunities, advance-
6 ment, training, and employment for disadvan-
7 tagged South Africans,

8 (C) encourage United States private sector
9 investment in and trade with South Africa,

10 (D) urge United States investors to de-
11 velop a working partnership with representative
12 organs of South African civil society, particu-
13 larly churches and trade unions, in promoting
14 responsible codes of corporate conduct and
15 other measures to address the historical inequi-
16 ties created under apartheid;

17 (5) the United States should urge the Govern-
18 ment of South Africa to liberalize its trade and in-
19 vestment policies to facilitate the expansion of the
20 economy, and to shift resources to meet the needs of
21 disadvantaged South Africans;

22 (6) the United States should promote coopera-
23 tion between South Africa and other countries in the
24 region to foster regional stability and economic
25 growth; and

1 (7) the United States should demonstrate its
2 support for an expedited transition to, and should
3 adopt a long term policy beneficial to the establish-
4 ment and perpetuation of, a nonracial democracy in
5 South Africa.

6 **SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND**
7 **OTHER MEASURES DIRECTED AT SOUTH AF-**
8 **RICA.**

9 (a) COMPREHENSIVE ANTI-APARTHEID ACT.—

10 (1) IN GENERAL.—All provisions of the Com-
11 prehensive Anti-Apartheid Act of 1986 (22 U.S.C.
12 5001 and following) are repealed as of the date of
13 enactment of this Act, except for the sections speci-
14 fied in paragraph (2).

15 (2) EFFECTIVE DATE OF REPEAL OF CODE OF
16 CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a),
17 203(b), 205, 207, 208, 601, 603, and 604 of the
18 Comprehensive Anti-Apartheid Act of 1986 are re-
19 pealed as of the date on which the President certifies
20 to the Congress that an interim government, elected
21 on a nonracial basis through free and fair elections,
22 has taken office in South Africa.

23 (3) CONFORMING AMENDMENTS.—(A) Section
24 3 of the Comprehensive Anti-Apartheid Act of 1986
25 is amended by striking paragraphs (2) through (4)

1 and paragraphs (7) through (9), by inserting “and”
2 at the end of paragraph (5), and by striking “; and”
3 at the end of paragraph (6) and inserting a period.

4 (B) The following provisions of the Foreign As-
5 sistance Act of 1961 that were enacted by the Com-
6 prehensive Anti-Apartheid Act of 1986 are repealed:
7 subsections (e)(2), (f), and (g) of section 116 (22
8 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), re-
9 lating to assistance for disadvantaged South Afri-
10 cans; and section 535 (22 U.S.C. 2346d). Section
11 116(e)(1) of the Foreign Assistance Act of 1961 is
12 amended by striking “(1)”.

13 (b) OTHER PROVISIONS.—The following provisions
14 are repealed or amended as follows:

15 (1) Subsections (c) and (d) of section 802 of
16 the International Security and Development Co-
17 operation Act of 1985 (99 Stat. 261) is repealed.

18 (2) Section 211 of the Foreign Relations Au-
19 thorization Act, Fiscal Years 1986 and 1987 (99
20 Stat. 432) is repealed, and section 1(b) of that Act
21 is amended by striking the item in the table of con-
22 tents relating to section 211.

23 (3) Sections 1223 and 1224 of the Foreign Re-
24 lations Authorization Act, Fiscal Years 1988 and
25 1989 (101 Stat. 1415) is repealed, and section 1(b)

1 of that Act is amended by striking the items in the
2 table of contents relating to sections 1223 and 1224.

3 (4) Section 362 of the Foreign Relations Au-
4 thorization Act, Fiscal Years 1992 and 1993 (105
5 Stat. 716) is repealed, and section 2 of that Act is
6 amended by striking the item in the table of con-
7 tents relating to section 362.

8 (5) Section 2(b)(9) of the Export-Import Bank
9 Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

10 (6) Section 43 of the Bretton Woods Agree-
11 ments Act (22 U.S.C. 286aa) is amended by repeal-
12 ing subsection (b) and by striking “(a)”.

13 (7) Section 330 of H.R. 5205 of the 99th Con-
14 gress (Department of Transportation and Related
15 Agencies Appropriations Act, 1987) (22 U.S.C.
16 5056a) as incorporated by reference in section
17 101(l) of Public Law 99–500 and Public Law 99–
18 591, and made effective as if enacted into law by
19 section 106 of Public Law 100–202, is repealed.

20 (8)(A) Section 901(j)(2)(C) of the Internal Rev-
21 enue Code of 1986 (26 U.S.C. 901(j)(2)(C)) is re-
22 pealed.

23 (B) Subparagraph (A) shall not be construed as
24 affecting any of the transitional rules contained in
25 Revenue Ruling 92–62 which apply by reason of the

1 termination of the period for which section 901(j) of
2 the Internal Revenue Code of 1986 was applicable to
3 South Africa.

4 (9) The table in section 502(b) of the Trade
5 Act of 1974 (19 U.S.C. 2462(b)) is amended by
6 striking “Republic of South Africa”.

7 (c) SANCTIONS MEASURES ADOPTED BY STATE OR
8 LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

9 (1) POLICY REGARDING RECISSION.—The Con-
10 gress urges all State or local governments and all
11 private entities in the United States that have
12 adopted any restriction on economic interactions
13 with South Africa, or any policy discouraging such
14 interaction, to rescind such restriction or policy.

15 (2) REPEAL OF PROVISIONS RELATING TO
16 WITHHOLDING FEDERAL FUNDS.—Effective October
17 1, 1995, the following provisions are repealed:

18 (A) The undesignated paragraph entitled
19 “STATE AND LOCAL ANTI-APARTHEID POLI-
20 CIES” in chapter IX of the Dire Emergency
21 Supplemental Appropriations and Transfers,
22 Urgent Supplementals, and Correcting Enroll-
23 ment Errors Act of 1989 (22 U.S.C. 5117).

1 (B) Section 210 of the Urgent Supple-
2 mental Appropriations Act, 1986 (100 Stat.
3 749).

4 (d) CONTINUATION OF UN SPECIAL SANCTIONS.—
5 It is the sense of the Congress that the United States
6 should continue to respect United Nations Security Coun-
7 cil resolutions on South Africa, including the resolution
8 providing for a mandatory embargo on arms sales to
9 South Africa and the resolutions relating to the import
10 of arms, restricting exports to the South African military
11 and police, and urging states to refrain from nuclear co-
12 operation that would contribute to the manufacture and
13 development by South Africa of nuclear weapons or nu-
14 clear devices.

15 **SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION**
16 **TO A NONRACIAL DEMOCRACY.**

17 (a) IN GENERAL.—The President is authorized and
18 encouraged to provide assistance under chapter 10 of part
19 I of the Foreign Assistance Act of 1961 (relating to the
20 Development Fund for Africa) or chapter 4 of part II of
21 that Act (relating to the Economic Support Fund) to sup-
22 port the transition to nonracial democracy in South Afri-
23 ca. Such assistance shall—

24 (1) focus on building the capacity of disadvan-
25 tagged South Africans to take their rightful place in

1 the political, social, and economic systems of their
2 country;

3 (2) give priority to working with and through
4 South African nongovernmental organizations whose
5 leadership and staff represent the majority popu-
6 lation and which have the support of the disadvan-
7 tagged communities being served by such organiza-
8 tions;

9 (3) in the case of education programs—

10 (A) be used to increase the capacity of
11 South African institutions to better serve the
12 needs of individuals disadvantaged by apart-
13 heid;

14 (B) emphasize education within South Af-
15 rica to the extent that assistance takes the form
16 of scholarships for disadvantaged South African
17 students; and

18 (C) fund nontraditional training activities;

19 (4) support activities to prepare South Africa
20 for elections, including voter and civic education pro-
21 grams, political party building, and technical elec-
22 toral assistance;

23 (5) support activities and entities, such as the
24 Peace Accord structures, which are working to end
25 the violence in South Africa; and

1 (6) support activities to promote human rights,
2 democratization, and a civil society.

3 (b) GOVERNMENT OF SOUTH AFRICA.—

4 (1) LIMITATION ON ASSISTANCE.—Except as
5 provided in paragraph (2), assistance provided in ac-
6 cordance with this section may not be made available
7 to the Government of South Africa, or organizations
8 financed and substantially controlled by that govern-
9 ment, unless the President certifies to the Congress
10 that an interim government that was elected on a
11 nonracial basis through free and fair elections has
12 taken office in South Africa.

13 (2) EXCEPTIONS.—Notwithstanding paragraph
14 (1), assistance may be provided for—

15 (A) the Transitional Executive Council;

16 (B) South African higher education insti-
17 tutions, particularly those traditionally dis-
18 advantaged by apartheid policies; and

19 (C) any other organization, entity, or activ-
20 ity if the President determines that the assist-
21 ance would promote the transition to nonracial
22 democracy in South Africa.

23 Any determination under subparagraph (C) should
24 be based on consultations with South African indi-
25 viduals and organizations representative of the ma-

1 jority population in South Africa (particularly con-
2 sultations through the Transitional Executive Coun-
3 cil) and consultations with the appropriate congres-
4 sional committees.

5 (c) INELIGIBLE ORGANIZATIONS.—

6 (1) ACTS OF VIOLENCE.—An organization that
7 has engaged in armed struggle or other acts of vio-
8 lence shall not be eligible for assistance provided in
9 accordance with this section unless that organization
10 is committed to a suspension of violence in the con-
11 text of progress toward nonracial democracy.

12 (2) VIEWS INCONSISTENT WITH DEMOCRACY
13 AND FREE ENTERPRISE.—Assistance provided in ac-
14 cordance with this section may not be made available
15 to any organization that has espoused views incon-
16 sistent with democracy and free enterprise unless
17 such organization is engaged actively and positively
18 in the process of transition to a nonracial democracy
19 and such assistance would advance the United
20 States objective of promoting democracy and free
21 enterprise in South Africa.

22 **SEC. 6. UNITED STATES INVESTMENT AND TRADE.**

23 (a) TAX TREATY.—The President should begin im-
24 mediately to negotiate a tax treaty with South Africa to
25 facilitate United States investment in that country.

1 (b) OPIC.—The President should immediately initi-
2 ate negotiations with the Government of South Africa for
3 an agreement authorizing the Overseas Private Invest-
4 ment Corporation to carry out programs with respect to
5 South Africa in order to expand United States investment
6 in that country.

7 (c) TRADE AND DEVELOPMENT AGENCY.—In carry-
8 ing out section 661 of the Foreign Assistance Act of 1961,
9 the Director of the Trade and Development Agency should
10 provide additional funds for activities related to projects
11 in South Africa.

12 (d) EXPORT-IMPORT BANK.—The Export-Import
13 Bank of the United States should expand its activities in
14 connection with exports to South Africa.

15 (e) PROMOTING DISADVANTAGED ENTERPRISES.—

16 (1) INVESTMENT AND TRADE PROGRAMS.—
17 Each of the agencies referred to in subsections (b)
18 through (d) should take active steps to encourage
19 the use of its programs to promote business enter-
20 prises in South Africa that are majority-owned by
21 South Africans disadvantaged by apartheid.

22 (2) UNITED STATES GOVERNMENT PROCUREMENT.—
23 To the extent not inconsistent with the obli-
24 gations of the United States under any international
25 agreement, the Secretary of State and the head of

1 any other department or agency of the United States
2 carrying out activities in South Africa shall, to the
3 maximum extent practicable, in procuring goods or
4 services, make affirmative efforts to assist business
5 enterprises having more than 50 percent beneficial
6 ownership by South African blacks or other
7 nonwhite South Africans, notwithstanding any law
8 relating to the making or performance of, or the ex-
9 penditure of funds for, United States Government
10 contracts.

11 **SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PRO-**
12 **GRAMS.**

13 The Director of the United States Information Agen-
14 cy should use the authorities of the United States Infor-
15 mation and Educational Exchange Act of 1948 to promote
16 the development of a nonracial democracy in South Africa.

17 **SEC. 8. OTHER COOPERATIVE AGREEMENTS.**

18 In addition to the actions specified in the preceding
19 sections of this Act, the President should seek to conclude
20 cooperative agreements with South Africa on a range of
21 issues, including cultural and scientific issues.

22 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND**
23 **OTHER DONORS.**

24 (a) IN GENERAL.—The President should encourage
25 other donors, particularly Japan and the European Com-

1 munity countries, to expand their activities in support of
2 the transition to nonracial democracy in South Africa.

3 (b) INTERNATIONAL FINANCIAL INSTITUTIONS.—
4 The Secretary of the Treasury should instruct the United
5 States Executive Director of each relevant international
6 financial institution, including the International Bank for
7 Reconstruction and Development and the International
8 Development Association, to urge that institution to initi-
9 ate or expand its lending and other financial assistance
10 activities to South Africa in order to support the transition
11 to nonracial democracy in South Africa.

12 (c) TECHNICAL ASSISTANCE.—The Secretary of the
13 Treasury should instruct the United States Executive Di-
14 rector of each relevant international financial institution
15 to urge that institution to fund programs to initiate or
16 expand technical assistance to South Africa for the pur-
17 pose of training the people of South Africa in government
18 management techniques.

19 **SEC. 10. CONSULTATION WITH SOUTH AFRICANS.**

20 In carrying out this Act, the President should consult
21 closely with South African individuals and organizations
22 representative of the majority population in South Africa
23 (particularly consultations through the Transitional Exec-

1 utive Council) and others committed to abolishing the
2 remnants of apartheid.

Passed the House of Representatives November 19,
1993.

Attest: DONNALD K. ANDERSON,
Clerk.

By DALLAS L. DENDY, Jr.,
Assistant to the Clerk.